

Docket No: **J0205.70000US00**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Pangalos et al.
Serial No. : 09/743,647
Filing Date : January 12, 2001
For : CLONING AND CHARACTERISATION OF NOVEL
MAMMALIAN PEPTIDASE

Examiner : Unknown
Art Unit : Unknown

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OFFICE OF PETITIONS

CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8(a)

The undersigned hereby certifies that this document is being placed in the United States mail with first-class postage attached, addressed to Mail Stop PETITION, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the 18th day of March, 2005.


June Watson

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Legal Staff
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PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
ABANDONED UNINTENTIONALLY UNDER 37 C.F.R. §1.137(b)

Sir:

Applicant respectfully petitions for revival of the above-identified application. According to the Notice of Abandonment mailed on November 25, 2002, this application became abandoned based on an alleged failure to reply to the Notice to File Missing Parts mailed on April 6, 2001. The facts underlying this petition are as follows:

A Notice to File Missing Parts was mailed to Applicant on April 6, 2001. Applicant filed a response to the Notice to File Missing Parts on June 29, 2001. Applicant encloses herewith a copy of the documents as filed on that date, including the postcard filed with the document, which was marked as received by the USPTO on July 2, 2001.

On January 31, 2002, Applicant received a Notice of Defective Response. The Notice of Defective Response did not contain a "Sequence Error Report" to identify the basis of the defect

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that prompted the mailing of the Notice. As a result of this omission, the secretary (at that time) of Applicant's representative telephoned the number listed on the Notice of Defective Response on several occasions in order to obtain a copy of the Sequence Error Report. At some point in time subsequent to this initial telephone inquiry, contact was established with the USPTO; a note in the file from the secretary indicated that the "PTO will send [a Sequence Error Report] and reset [the] period for response."

At a subsequent time, Applicant's representative noted that no Sequence Error Report had been received, and no further communication from the USPTO resetting the time for response had been received (i.e., a new Notice of Defective Response). The representative's secretary again telephoned the office listed on the Notice of Defective Response to determine if the new Notice had been sent. This action most likely was taken at some time after February 2002, because a note in the file states that "they are checking, supposedly a new one was mailed in Feb." The note is indicative of the USPTO's intent to send a new Notice of Defective Response and to reset the period for response.

On May 24, 2002, a note in the file indicates that the USPTO again was contacted to obtain a new Notice of Defective Response. A message requesting that the USPTO contact Applicant's representative was left at the same telephone number at that time. Thus, as of May 24, 2002, no new Notice of Defective Response had been received by Applicant's representative.

The representative's secretary continued to telephone the office listed on the Notice of Defective Response to determine if a copy of the new Notice had been sent. No copy of the Sequence Error Report was ever received by Applicant. Likewise, no new Notice of Defective Response was ever received by Applicant.

The next communication from the USPTO was a Notice of Abandonment, mailed on November 25, 2002. As noted above, the basis for the abandonment was failure to respond to the Notice of Missing Requirements of April 6, 2001. Applicant clearly did file an appropriate response to this Notice, and as evidenced by the stamped return receipt postcard, Applicant's

response was received by the USPTO. For this reason alone, Applicant respectfully requests relief.

The representative's secretary maintained the file at all times during her employment with the representative's firm. The secretary left the firm in October 2002. Prior to leaving the firm, it appears that she misfiled the file, because the file was not found when the notice of abandonment was received in December 2002.

Despite periodic efforts to locate the file, it was not found until after the firm initiated a firm-wide organization procedure prior to moving its offices in March of 2004.

The Applicant made an inquiry with its representative regarding the status of the case in November of 2004. Applicant's representative then located the file, ascertained that no response had been received to the aforementioned inquiries in 2002, and then contacted the USPTO to determine the status of the case. Applicant's representative discussed the case with Ms. Barbara Campbell of the USPTO, who is listed on the Notice of Abandonment. Ms. Campbell stated that the USPTO records indicate that another Notice of Defective Response was sent on February 21, 2002. As noted above, Applicant's representative never received this second Notice of Defective Response. Ms. Campbell was not able to determine whether the second Notice of Defective Response included a Sequence Error Report that would have permitted the representative to address that issue.


The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 C.F.R. 1.137(b) was unintentional, as Applicant never intended to abandon this application. It is noted also that the required reply to the Notice of Missing Requirements, which was the basis for the issuance of the Notice of Abandonment, was in fact timely filed. It is submitted, therefore, that on the facts described above the abandonment should be held to be unintentional and inadvertent, the enclosed copy of the response to the Notice of Missing Requirements should be entered, and the case revived.

Applicant also encloses herewith a revised Sequence Listing that Applicant believes corrects any defects present in the originally filed Sequence Listing. A Statement under 37 C.F.R. 1.821 also is enclosed. Should the enclosed papers not correct any remaining defect, Applicant respectfully requests that the Office promptly contact the undersigned to inform Applicant of any further requirement to allow the application to be examined. Any such further requirements will be promptly addressed and corrective papers filed as needed.

A check in the amount of \$1,500.00 covering the fee set forth in 37 C.F.R. 1.17(m) is enclosed. The Commissioner is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account, No. 23/2825.

Should there be any questions or if this petition does not place this application in condition for revival, Applicant urges the Office of Petitions to call the undersigned at telephone no. (617) 646-8000.

Respectfully submitted,

By: 
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Attorney's Docket No.: J0205.70000US00
Date: March 18, 2005
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